

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MEMORANDUM

JS 6

Case No. CV 17-4637 DSF  
CR 03-1144

Date 11/29/17

Title Angel Osuna Rios v. United States of America

Present: The  
Honorable

DALE S. FISCHER, United States District Judge

Debra Plato

Not Present

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

**Proceedings:** (In Chambers) Order DENYING Motion Pursuant to 28 U.S.C. § 2255

Petitioner's § 2255 motion is DENIED for several reasons. Petitioner does not dispute that his motion falls well outside the one-year time limit for filing § 2255 motions if the time is calculated from when his criminal judgment became final on appeal. He argues that time should instead be calculated from the Supreme Court's decision in Mathis v. United States, 136 S.Ct. 2243 (2016). There are a number of problems with this. First, Petitioner's arguments have nothing to do with the issue decided in Mathis. Instead, they are based on a general application of the modified categorical approach. Therefore, the Mathis decision cannot provide "the date on which the right asserted was initially recognized by the Supreme Court." 28 U.S.C. § 2255(f)(3). In addition, Mathis does not enunciate any new right; it merely expands on the application of the well-established categorical approach. Finally, Petitioner's motion appears to have little merit. His mandatory minimum appears to have arisen from an application of 21 U.S.C. § 841(b)(1)(A), not 18 U.S.C. § 924.<sup>1</sup> He also received a sentence higher than the 20-year mandatory minimum – 262 months – so it is difficult to see how he was prejudiced even if an error had been made regarding the mandatory minimum.

IT IS SO ORDERED.

<sup>1</sup> Petitioner admitted to having possessed with an intent to distribute at least 23 kilograms of cocaine and to having a prior conviction for a felony drug offense.